

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, July 1, 2005

Division One

A105457 – Traveler’s Casualty and Surety Company v. Employers Insurance of Wausau.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Tuesday, July 5, 2005

Division Two

A108647 – Chienkoh C. Tong v. Stephen M. Doherty.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

Division Three

A102620 – The People v. Franklin Neal Brady et al.

The Court: The petition for rehearing is denied. Corrigan, Acting P.J.

Wednesday, July 6, 2005

Division One

A106583 – Michael Harrington v. Hotwire, Inc.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Two

A104026 – The People v. David Castor.

The judgment shall be modified to reflect that appellant is entitled to 33 days of presentence custody credit and, as so modified, is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Division Three

A105571 – In re the Marriage of Ramah David and Michael Blumenfeld. Ramah David v. Michael Blumenfeld.

Upon joint application of the parties, the judgment of the trial court is reversed and the matter is remanded for further proceedings. The remittitur is to issue forthwith. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Division Four

A107637 – In re D.R. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. L.B.

The orders terminating parental rights are affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

A107332 – The People v. Marcell Tramain Goodwin.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Wednesday, July 6, 2005 (continued)

Division Five

A105674 – The Regents of the University of California v. East Bay Municipal Utility District.

The judgment is affirmed in part and reversed in part. The case is remanded with instructions to enter a new judgment in favor of the Regents in the stipulated sum of \$741,000 and interest thereon. Costs on appeal are awarded to the Regents. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication)

Thursday, July 7, 2005

Division One

A109360 – The People v. Carrie Deanne Gillock.

Throughout the proceedings, defendant was represented by competent counsel. There was no sentencing error. We find no arguable issues that require further briefing. The order revoking defendant's probation and the sentence imposed are affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Three

A106161 – Elleree Jones v. Leslie Controls, Inc.

The new trial order is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Division Four

A110359 – Pacific Specialty Insurance Company v. The Superior Court of San Mateo County; Mike Douglas et al., R.P. I.

By the Court: * Let a peremptory writ of mandate issue, commanding respondent San Mateo County Superior Court to vacate its order denying the motion for summary judgment or summary adjudication. That court shall either make an appropriate order under Code of Civil Procedure section 437c, subdivision (g), or grant the motion for summary judgment. Pacific shall recover its costs for this proceeding. (Cal. Rules of Court, rule 56(l).) This opinion shall be final as to this court within 15 days after it is filed. (Rule 24(b)(3).) *Kay, P.J. We Concur: Reardon, J., Rivera, J.

Friday, July 8, 2005

Division Two

A109481 – In re Sequari W., a minor. Social Services Agency v. Lena B.

By the Court: Appellant Lena B.'s attorney filed a letter with this court on May 31, 2005, indicating there are no arguable issues. Appellant Lena B. has failed to respond to our letter of the same date, giving her the opportunity to state any issues she feels should be reviewed on appeal. The appeal is therefore dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Kline, P.J.

A104874 – Praxis Development Group, Inc., v. Richman, Lawrence, Greene & Chizever.

The judgment is affirmed. Praxis is to pay costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

A110176 – Jamee Winchell, et al., v. Angela Kuhn, et al.

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to show good cause for relief from default, the appeal filed May 11, 2005, is dismissed. (See Ca. Rules of Court, rule 8(b)(1).) Kline, P.J.

A108175 – Carl Clements, et al., v. Frank Natale.

By the Court: Appellant having failed to file a brief after notice given under 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

Monday, July 11, 2005

Division Three

A107755 – The People v. Michael Ray Ainsworth.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication)

A110114 – Jared W. v. The Superior Court of Contra Costa County; Contra Costa County Bureau of Children and Family Services et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art VI, § 14; *Knowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the permanency planning hearing is set for August 10, 2005, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication)

Tuesday, July 12, 2005

Division One

A106117 – Adam K. Levin, et al., v. Todd A. Meagher, et al.

By the Court:* The Court having considered appellant's motion to vacate stay and for entry of judgment, and the opposition thereto, the stay previously imposed is vacated and the appeal is dismissed. The parties shall each bear their own costs and attorney fees on appeal. Marchiano, P.J. *Before Marchiano, P.J., Stein, J., and Margulies, J.

Division Two

A106958 – Jesus O. Ceballos v. Berkeley Farms, Inc.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Division Three

A102335 – James Vlahos et al., v. International Baking Company, Inc.

The order is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication)

A104712 – The People v. Kenton Warner Keading.

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 12, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A108456 People
 v.
 Menaz Ahmad
Cause called. Maria Morga argued for appellant Ahmad. Rene A. Chacon argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Sepulveda, J.

A108200 Thomas M. Reese
 v.
 Toni Dal Molin
Cause called. Janis Grattan teleargued for appellant Reese. Barry W. Meyer argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Rivera, J.

A104918 Khadija A. Ghafur
 v.
 Jonathan Bernstein et al.
Cause called. Brian Beckwith argued for appellant Ghafur. Susan Handelman argued for respondents. Cause submitted.

The Court recessed from 10:45 a.m. to 10:52 a.m.

A105000 Marie Bowman et al.
 v.
 City of Berkeley
Cause called. Zach Cowan argued for appellant City. Susan Brandt-Hawley argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Sepulveda, J., and Rivera, J.

A105539

John W. Davis

v.

Apple Computer, Inc.

Cause called. Luanne Sacks argued for appellant Apple. Marcus Merchasin argued for respondent. Cause submitted.

The Court recessed at 11:40 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 12, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A106730 Joey Tyquiengco et al.
 v.
 California Association of Realtors
Cause called. Jason Curliano argued for appellants Tyquiengco et al. Robert J. Stumpf argued for respondent. Cause submitted.

The Court adjourned at 1:49 p.m.

Tuesday, July 12, 2005 (continued)

Division Five

A107999 – The People v. Vincent Reed.

The judgment of conviction is affirmed. Stevens, Acting P.J. We Concur: Simons, J.,
Gemello, J. (Not for Publication)

Wednesday, July 13, 2005

Division One

A108658 – In re Melinda M., a Person Coming Under the Juvenile Court Law. The People v. Melinda M.

The adjudication of wardship is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A106133 – The People v. Kanuri Surgury Qawi.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A106373 – Joanne Michelle McLemore v. Circuit City Stores, Inc.

The order denying Circuit City's motion to compel arbitration is affirmed. The order denying Circuit City's motion for reconsideration is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

A103504 – The People v. Sean Keith Shields.

The true finding on the peace officer penalty allegations (§ 664, subd. (e)) in count one is reversed and remanded to the trial court for retrial. (See *People v. Schulz* (1992) 5 Cal.App.4th 563, 569-570.) Appellant's conviction for possession of an assault weapon is reversed and the two-year concurrent sentence is stricken from the abstract of judgment. In all other respects, the judgment is affirmed. Kline, P.J. I Concur: Lambden, J. (See dissenting opinion by Haerle, J.) (Not for Publication)

Division Three

A108121 – The People v. Anthony Joseph Marks.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Pollak, J., Parrilli, J. (Not for Publication)

A108088 – The People v. Bartholomew Adam Williams.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, July 13, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Parrilli, J., Pollak, J., and F. Abad, Deputy Clerk

A106098 The People,
 v.
 Billy Ray Shanee Maldonado.
Cause called and argued by William Such, counsel for appellant, and David Baskind, counsel for respondent. Cause ordered submitted.

Justice McGuiness left the bench. Justice Corrigan joined the bench and presided over the remainder of the calendar.

A106880 Joseph Bohm, et al.,
 v.
 M. Buchanan, et al.
Cause called and argued by Denise Schwartzman, counsel for appellants, George Donaldson, counsel for respondent Michael Buchanan, and Allan Slagel, counsel for respondents NTS-Properties Associates, et al. Cause ordered submitted.

COURT ADJOURNED

Wednesday, July 13, 2005 (continued)

Division Four

A107740 – In re M.L., a Person Coming Under the Juvenile Court Law. The People v. M.L.

The jurisdictional findings and the dispositional order are affirmed. Kay, P.J. We
Concur: Sepulveda, J., Rivera, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, July 14, 2005

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, J., Swager, J., and Margulies, J.; and I. Calanoc, Deputy Clerk.

A105274 Bettye J. Littlepage,
 v.
 California Department of Developmental Services.
Cause called and argued by Richard Rogers, counsel for appellant, and Nancy Beninati, counsel for respondent. Cause ordered submitted.

A105607 Adena M. Rosmarin,
A105716 v.
 Peter Michael Rosmarin.
Cause called and argued by Adena Rosmarin, appellant, and Robert Condie, counsel for respondent. Cause ordered submitted.

A109285 Vicente Rivera,
 v.
 Jian Ming Chen, et al.
Cause called and argued by Andrew Zacks, counsel for appellants, and Raquel Fox (via teleconference), counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT

DIVISION ONE

Thursday, July 14, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Swager, J.; and B. Robbins, Deputy Clerk.

The Court announced that the last case on calendar, Chiang v. Soong, A107460, has been continued to the August calendar.

A108009 Kia C. Chevalier,
 v.
 State of California, et al.
Cause called and argued by Kia C. Chevalier, appellant in pro per, and Judith L. Loach, counsel for respondents. Appellant requested continuance of oral argument so she may prepare and provide visual aids for argument. The Court denied the request and instructed appellant to proceed with argument. Cause ordered submitted.

A106934 Quinette M. Ozen, et al.,
 v.
 Roosevelt Richardson, Jr., et al.
Cause called and argued by Colin Barr, counsel for appellants, via teleconference, and Kimberly A. Fanady, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Stein joined the bench. Justice Margulies did not participate in argument of the next case, but remained in the courtroom.

A104140 John T. Fowler,
 v.
 Janette Thompson, et al.
Cause called and argued by Kimberly A. Fanady, counsel for appellant, and J. Bryan Rodriguez, counsel for respondent Thompson, and Orrin L. Gover, counsel for respondent Volta. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Margulies resumed participation in argument.

A101399 The People,

v.

Jamisi Calloway.

Cause called and argued by Fred Baker, counsel for appellant, and Morris Lenk, counsel for respondent. Cause ordered submitted.

Court recessed until Friday, July 15, 2005 at 9:00 a.m.

Friday, July 15, 2005

Division One

A105909 – The People v. Brian Buitrago.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Four

A106730 – Joey Tyquiengco et al., v. California Association of Realtors.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

A105143 – Sara Barnes v. Center for Claims Resolution.

The order granting CCR summary judgment and the judgment upon that order are affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, July 15, 2005

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and I. Calanoc, Deputy Clerk.

- A107877 The People,
 v.
 Charles Edward Rollins.
Cause called and argued by Alan Charles Dell'Ario, counsel for appellant, and Allen Crown, counsel for respondent. Cause ordered submitted.
- A105129 Aetna Realty et al.,
 v.
 City of South San Francisco.
Cause called and argued by Stephen Mayne and Ashley Dunning, counsel for appellants, and David Skinner, counsel for respondent. Cause ordered submitted. Justice Margulies left the bench after this case.
- A105461 Jacq Wilson,
A106368 v.
 Brawn of California.
Justice Swager approached the bench. Cause called and argued by Richard Posnell, counsel for appellant, and Arthur Levy, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Monday, July 18, 2005

Division One

A107639 – In re Aaron R., a Person Coming Under the Juvenile Court Law. City & County of San Francisco Social Services Department v. Stephanie R.; Irie P., Movant and Appellant.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A106407 – Carmen F. Luna et al., v. Cecile Guillem.

The judgment is modified to reflect a setoff of the \$12,209.99 awarded to Guillem on her cross-complaint against the \$27,287.73 awarded to respondents for attorney fees and costs, resulting in a net judgment of \$15,077.74 against Guillem and in favor of respondents. As so modified, the judgment is affirmed. Respondents shall recover their costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A106079 – In re the Marriage of Ann Marie Meagher and Malekpour Maleki. Ann Marie Meagher v. Malekpour Maleki.

The judgment is reversed, and the case is remanded to the trial court for further proceedings. In the interests of justice, the parties shall each bear their own costs on appeal. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication)

A105413 – The People v. Daniel John Saint-Amans.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

A107714 – Cary Smith v. Raymond Flinn.

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A109422 – Ianko Gabrovsky v. Ramlor Construction, Inc., et al.

The appeal is dismissed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A109052 – The People v. Susan Ann White.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Monday, July 18, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Wheeler, Deputy Clerk.

A100196 The People,
 v.
 Dennis James Sarmiento.
Cause called and argued by Michael Bryan Dashjian, via teleconference, counsel for appellant, and John R. Vance, Jr., Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P.J., Lambden, J., Ruvalo, J., and S. Wheeler, Deputy Clerk.

A107900 The People,
 v.
 Norman Brown, Jr.
Cause called and argued by John Francis McCabe, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A106303 Cecil Bugh,
 v.
 County of Los Angeles, et al.
Cause called and argued by Scott Donald Bertzyk, counsel for appellants, and W. David Holsberry, counsel for respondent. Cause ordered submitted.

A107132 E.O.C. ORD, Inc., et al.,
 v.
 Unique Investment Corporation.
Cause called and argued by Harry Chamberlain, counsel for appellant, and Geoffrey Alan Beaty, counsel for respondents. Cause ordered submitted.

A105537 City and County of San Francisco, et al.
 v.

Josef J. Pohl.

Cause called and appearing Joseph K. Bravo, counsel for appellant, and Timothy Charles Benetti, counsel for respondents. Counsel to submit a letter regarding settlement within five (5) days.

A105222

Adam A. Schwartz,

v.

VISA International Service Association, et al.

Cause called and argued by Jay Fastow and Laurence Popofsky, counsel for appellants, and Pamela Parker, counsel for respondent. Cause ordered submitted.

Court recess until Tuesday, July 19, 2005 at 9:30 a.m.

Monday, July 18, 2005

Division Four

A107691 – The People v. Antwan Maurice Araujo.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

A102564 – Matson Construction, Inc., v. Catherine Miller et al.

The judgment is affirmed and the requests for sanctions are denied. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

A108200 – Estate of Nettie Bell Dal Molin, Deceased. Thomas M. Reese v. Toni Dal Molin.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A104945 – The People v. Andrew Joseph Sedillo.

A105108 – The People v. Joseph Gilbert.

The judgments of conviction are affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment for People v. Andrew Joseph Sedillo, San Mateo Superior Court action No. SC050855, showing the following: (1) sentence on Count 3 was ordered stayed pursuant to section 654; (2) no sentence was imposed for an enhancement pursuant to section 12022.5, subdivision (a) or section 12022.7 on Count 5; (3) a five-year sentence was imposed pursuant to section 186.22, subdivision (b)(1) on Count 5 but stayed pursuant to section 654; (4) enhancement terms on Counts 3, 4, and 5 were imposed pursuant to section 12022, subdivision (a)(1); and (5) defendant was given credit for 840 days in custody pursuant to section 4019, and 126 days pursuant to section 2933.1. The clerk shall forward a certified copy of the amended abstract to the Department of Corrections. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

A107574 – City of La Mesa v. California Joint Powers Insurance Authority.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication)

Tuesday, July 19, 2005

Division One

A105607 and A105716 – Adena M. Rosmarin v. Peter Michael Rosmarin.

In case No. A105607, we reverse the trial court's September 18, 2003 order to the extent that it (1) orders Peter to maintain \$600,000 in a trust account and (2) purports to retain jurisdiction over issues having to do with the establishment of a conforming trust and the disposition of the trust account. We remand the matter back to the trial court with instructions to modify the order so as to eliminate these provisions. We affirm the September 18, 2003 order in all other respects. In case No. A105716, we affirm the trial court's January 30, 2004 order. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A110498 – James Everett Walker v. The Superior Court of San Mateo County; The People, R.P.I.

The Court:* Let a peremptory writ of mandate issue commanding respondent, County of San Mateo Superior Court, to issue a certificate probable cause in *People v. James Everett Walker* (case No. SC56757). This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) The clerk of this court is directed to file a copy of this opinion in *People v. Walker*, case No. A109171. *Before Stein, Acting P.J., Swager, J., and Margulies, J. (Not for Publication)

A105274 – Bettye J. Littlepage v. California Department of Developmental Services.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A108339 – The People v. Anthony Drayton.

Order Modifying Opinion and Denying Rehearing and no change in judgment. The Court: It is ordered that the opinion filed herein on June 23, 2005, be modified in the following particulars: (See Order) There is no change in the judgment. The petition for rehearing is denied. Stein, Acting P.J. (Not for Publication)

A107877 – The People v. Charles Edward Rollins.

The case is remanded back to the trial court for: (1) a determination of the custody credits, if any, to which defendant is entitled for the period of his confinement in county jail from September 2, 2003 in case No. S473495 in accordance with the views expressed herein; and (2) amendment of the abstract of judgment if additional credits are determined to be warranted. In all other respects, the judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Tuesday, July 19, 2005

Division Two

A107742 – In re Jason F., a Person Coming Under the Juvenile Court Law. The People v. Jason F.

The finding and order on the petition is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication)

A103074 – The People v. Charles T. Sowers.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

A107878 – The People v. Oges Roberson.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication)

A107075 – The People v. Ricky Louis Jones.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, July 19, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Ruvolo, J., I. Santos, Deputy Clerk, and Officer Vince Chambers.

- A107666 Sandra Agi,
v.
Marzia Leonhardt.
Cause called and argued by Ronald Toran, counsel for appellant, and Noell Kubota, counsel for respondent. Cause ordered submitted.
- A105570 Alfonso P. Acampora, Jr. et al.,
v.
Kim Norman et al.
Cause called and argued by William Campisi, counsel for appellant, and Ann H. Larson, counsel for respondent. Cause ordered submitted.
- A107580 John F. Ford, III, et al.,
v.
Richard E. Warren, Jr.
Cause called and argued by Duncan Footman (via teleconference), counsel for appellant, and Lloyd Llewelyn, counsel for respondent. Cause ordered submitted.
- Court reconvened at 1:30 p.m. Present: Kline, P.J., Lambden, J., Ruvolo, J., I. Santos, Deputy Clerk and Officer Arnold Stamps.
- A106449 Andrew K. Knight,
v.
Hayward Unified School District.
Cause called and argued by John T. Hansen, counsel for appellant, and Domenic Spinelli, counsel for respondent. Cause ordered submitted.
- A107092 Joseph J. Esposito,
v.
Ned Rodney Morehouse.
Cause called and argued by Donald Anthony Wheeldin, counsel for appellant, and William George McDevitt, counsel for respondent. Cause ordered submitted.

A108366 Melanie Welch,
 v.
 Oakland Unified School District.
Cause called and argued by David Weintraub, counsel for appellant, and Roy
Combs, counsel for respondent. Cause ordered submitted.

A108367 Mark Petrofsky,
 v.
 Oakland Unified School District.
Cause called and argued by David Weintraub, counsel for appellant, and Roy
Combs, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Tuesday, July 19, 2005

Division Three

A106098 – The People v. Billy Ray Shanee Maldonado.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Division Four

A108456 – The People v. Menaz Ahmad.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

A106116 – The People v. \$25,000 United States Currency; Paul L. Fields, Jr.

By the Court: Good cause appearing, the request to publish this Court's June 29, 2005 opinion is granted and the Reporter of Decision shall publish the opinion in the Official Reports. Reardon, Acting P.J.

Wednesday, July 20, 2005

Division One

A107656 – Robert Busch, et al., v. Charles E. Hurwitz, et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

A109988 – The People v. Jerry Dale Herd.

We have thoroughly reviewed the record and find no arguable issues. While we have selected certain matters for discussion, we have scrutinized the record in its entirety. There are no issues requiring further briefing. The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A107242 – The People v. Earl Anderson.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A108443 – The People v. Thomas E. Bruce.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A108315 – In re Jasmine G., a Person Coming Under the Juvenile Court Law. Contra Costa County Employment and Human Services Department, Children and Family Services Bureau v. Cassandra G.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A109781 – The People v. Lionel Joseph.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Wednesday, July 20, 2005

Division Four

A105000 – Marie Bowman et al., v. City of Berkeley; Affordable Housing Associates, R.P.I.

The orders for fees and costs are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication)

A108398 – In re Tyree J., a Person Coming Under the Juvenile Court Law. The People v. Tyree J.

The matter is remanded for the juvenile court's explicit determination of whether it is treating the accessory charge as a felony or misdemeanor and for recalculation of the maximum term of confinement. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

A102198 – The People v. Harold Morales.

A108550 – In re Harold Morales, on Habeas Corpus.

The judgment is affirmed. The petition for habeas corpus is denied. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Wednesday, July 20, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J., and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Steven Umeki, Bailiff.

A107716 Sony Chong
 v.
 Morrie Friedman et al.
Cause called. Samuel Ware argued for appellants Friedman et al. Brian Virag argued for respondent via telephone conference. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Sepulveda, J.

A106689 People
 v.
 Guadalupe Espinosa-Suarez
Cause called. John Staley argued for appellant Espinosa-Suarez. Stan Helfman argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J., and Rivera, J.

A104336 People
 v.
 Robert Thomas III
Cause called. Wilson A. Schooley argued for appellant Thomas. Catherine McBrien argued for respondent. Cause submitted.

A105231 Sherwood Partners, Inc.
A107310 v.
 250 LLC

 250 LLC
 v.
 Photopoint Corp (USA) et al.
Causes called. Diane C. Stanfield argued for appellant/cross-respondent Sherwood Partners, Inc. Janet Brayer argued for respondent/cross-appellant. Causes submitted.

The Court adjourned at 10:57 a.m.

Thursday, July 21, 2005

Division One

A106034 – The People v. Eric Douglas Chaney.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J.
(Certified for Partial Publication)

Division Two

A110184 – Kenya G. v. Alameda County Superior Court; Alameda County Social Services Agency, R.P.I.

The petition is denied on the merits. (Cal. Const., art. VI §14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [barring subsequent challenges by appeal]; § 366.26, subd. (l)(1).) Given the need to proceed promptly with the .26 hearing set for August 25, 2005, our decision is final as to this court immediately (rule 24(b)(3)). Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A105832 – John Conley et al., v. Pacific Gas and Electric Company.

We affirmed the trial court's order denying class certification with respect to the proposed salary basis class. With regard to the proposed job duties classes, we remand for further proceedings consistent with this opinion. In the interests of justice, appellants and respondent shall each bear their own costs on this appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication)

Division Four

A107840 – In re John N., a Person Coming Under the Juvenile Court Law. The People v. John N.

The order of commitment is remanded for that sole purpose. The order is affirmed in all other respects. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

A110077 – Juliette S. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd.(l)(1)(C); rule 38.1(h)(1); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Rule 24(b)(3).) The request for a stay of the August 24, 2005 hearing is denied. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

Friday, July 22, 2005

Division One

A107672 – The People v. Ronald Christopher Stevens.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A107038 – The People v. Raymon Allen Curtis.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A104710 – The People v. Carlos Aguirre.

Therefore, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A107622 – The People v. Ranger Insurance Company.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A107350 – Romeo Dela Vega et al., v. Jonathan R. Yarwood et al; City and County of San Francisco, Intervener and Appellant.

The judgment is reversed. Costs are awarded to the City. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

A108125 – The People v. Hector Martinez.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A099649 – Patty Shugart v. OEA, Inc.

Order Modifying Opinion and Denying Rehearing and no change in judgment. The Court: It is ordered that the opinion filed herein on June 27, 2005, be modified as follows: (See Order) There is no change in the judgment. Respondent's petition for rehearing is denied. Marchiano, P.J. (Not for Publication)

A108099 – The People v. Scott Struckman.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

Friday, July 22, 2005 (continued)

Division Four

A106874 – Thomas M. Williams v. Deutsche Bank Securities Inc. et al.

The order staying this action is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J.
(Not for Publication)

Division Five

**A106781 – In re Bartholomew D., a Person Coming Under the Juvenile Court Law.
The People v. Bartholomew D.**

The orders sustaining the petition and committing appellant to CYA are affirmed. The case is remanded to the juvenile court with directions to (1) calculate the amount of precommitment custody credit to which appellant is entitled; (2) prepare an amended commitment order reflecting such credit; and (3) forward a certified copy of the amended commitment order to CYA or, if applicable, appellant's alternate placement. Jones, P.J. We Concur: Simons, J., Gemello, J. (Certified for Partial Publication)

A107494 – Deborah Drummer v. San Francisco Housing Authority.

The order is vacated and remanded with directions to the trial court to reissue the writ order pursuant to section 970.5. Each party shall bear its own costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Friday, July 22, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Stevens, J., Simons, J., Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

- A104604 Rabobank Nederland et al.
 v.
 National Westminster Bank
Cause called and argued by Gregory J. Taylor, counsel for appellant, and by Mary Jo Shartsis, counsel for respondent. Cause ordered submitted.
- A104632 Rabobank Nederland et al.
 v.
 National Westminster Bank
Cause called and argued by Gregory J. Taylor, counsel for appellant, and by Mary Jo Shartsis, counsel for respondent. Cause ordered submitted.
- A106145 Rabobank Nederland et al.
 v.
 National Westminster Bank
Cause called and argued by Mary Jo Shartsis, counsel for appellant, and by Gregory J. Taylor, counsel for respondent. Cause ordered submitted.
- A108105 Joseph A. Mariscal
 v.
 San Francisco Bay Area Rapid Transit
Cause called and argued by Michael E. Scholtes, counsel for appellant, and by Peter Edrington, counsel for respondent. Cause ordered submitted.
- A106315 Edward P. Friedberg et al.
 v.
 Franchise Tax Board
Cause called and argued by Marguerite C. Stricklin, counsel for appellant, and by John E. Cassinat, counsel for respondent. Cause ordered submitted.

A104164 Pinnacle Distribution Co. Inc.
v.
Vahdani Construction Company Inc.
Cause called and argued by Margaret A. Seltzer, counsel for appellant, and by Eli J. Karpeles, counsel for respondent. Tom Blake counsel for respondent The Department of General Services was also present but did not argue. Cause ordered submitted.

A104255 Pinnacle Distribution Co. Inc.
v.
Fidelity And Deposit Company Of Maryland
Cause called and argued by Edward D. Lodgen, counsel for appellant, and by Eli J. Karpeles, counsel for respondent. Cause ordered submitted.

A108710 Sheila McDowd
v.
Conard House, Inc.
Cause called and argued by Sheila McDowd, appellant in pro per, and by Kenneth A. Jones, counsel for respondent, appearing via teleconference. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Jones entered

A093538 Milton Wise et al.
v.
Pacific Gas And Electric Company
Cause called and argued by Joseph H. Ainley, counsel for appellant, and by Frederick D. Baker, counsel for respondent. Cause ordered submitted.

A104542 Mark Sproul et al.
v.
Oakland Raiders et al.
Cause called and argued by Lingel H. Winters, counsel for appellant, and by Angela L. Padilla and Jeffrey E. Faucette, counsel for respondents. Cause ordered submitted.

A104255 Mark Sproul et al.
v.
Oakland Raiders et al.
Cause called and argued by Lingel H. Winters, counsel for appellant, and by Angela L. Padilla and Jeffrey E. Faucette, counsel for respondents. Cause ordered submitted.

At 12:30 p.m. the Court recessed until 1:30 p.m

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Friday, July 22, 2005

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Stevens, J., Simons, J., and Richard H. Sandvik, Deputy Clerk.

A104651 Carol J. Norton

v.

Randy Rodriques

Cause called and argued by Linda M. Rottman, counsel for appellant, and by Jewell J. Hargleroad, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Simons leaves the bench and Justice Gemello enters.

A108384 Lena R. Williams

v.

Vallejo City Unified School District et al.

Cause called and argued by William H. Sortor, counsel for appellant, and by Wendy Getty, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Stevens leaves the bench and Justice Simons enters.

A108110 State Compensation Insurance Fund

v.

John Garamendi

KISS Entertainment

Cause called and argued by Pedro G. Ruiz, counsel for appellant, and by James B. Mehalick, counsel for respondent. Cause ordered submitted.

A107908 Angelo Markoulis

v.

Studio Mechanica

Cause called and argued by Curtis Dowling, counsel for appellant, and by Richard H. McConnell, counsel for respondent. Cause ordered submitted.

A107821 The People

v.

Willie Schoby, Jr.

Order to show cause on CSR Sharon O'Donnell. CSR Sharon O'Donnell is ordered to have the augmented Reporter's transcript filed in this court on or before August 8, 2005. If the transcript is not prepared and filed by August 8, 2005, Ms. O'Donnell is to report to the clerk's office of this court, on said date, and work on the preparation of the delinquent transcript until it is completed.

Court adjourned at 2:55 p.m.

Monday, July 25, 2005

Division One

A106592 – Citizens to Enforce CEQA et al., v. City of Rohnert Part et al.; SC Sonoma Development, LLC, R.P.I.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A108670 – In re Ladarien J., a Person Coming Under the Juvenile Court Law. The People v. Ladarien J.

The orders of the juvenile court are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

Division Four

A108541 – The People v. Daniel W. Ford.

The judgment is modified by striking the \$600 restitution fines imposed on revocation of probation and imposition of sentence. The \$800 restitution fines remain in force. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accordance with this disposition and deliver it to the Department of Corrections. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

A107982 – The People v. Logan Ray Biles.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

Division Five

A110386 – In re Rosario G. et al., Persons Coming Under the Juvenile Court Law. Melissa G. v. Contra Costa Superior Court; Contra Costa County, Bureau of Children and Family Services, R.P.I.

The order to show cause is discharged, and the petition for writ of mandate is denied. (Welf. & Inst. Code, § 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 38.1(d); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Tuesday, July 26, 2005

Division One

A109569 – The People v. LT Smith.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

A107446 – The People v. Steven John Shubunka.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

A104968 – Mark Anthony Johnson v. State Personnel Board et al.

We affirm the judgment. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication)

A104141 – Lewis Green v. The Graduate Theological Union, et al.

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication)

A106512 – Alisal Improvement Club v. City of Pleasanton et al.

The judgment denying and dismissing the petition for writ of mandate is affirmed. Respondent is awarded costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A109422 – Ianko Garbrovsky v. Ramlor Construction, Inc., et al.

By the Court: It is ordered that the opinion filed herein on July 18, 2005, be modified as follows: (See Order) This modification does not effect a change in the judgment. Kline, P.J. (Not for Publication)

Tuesday, July 26, 2005 (continued)

Division Three

A101736 – The People v. Cleotha Jones.

A107889 – In re Cleotha Jones, on Habeas Corpus.

The judgment is reversed. On remand, Jones shall be permitted to withdraw his pleas and admissions. McGuiness, P.J. I Concur: Corrigan, J. (See concurring opinion by Pollak, J.) (Not for Publication)

A108121 – The People v. Anthony Joseph Marks.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A108224 – In re George E., a Person Coming Under the Juvenile Court Law. The People v. George E.

The order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A108444 – Felicia Pinkwater v. San Francisco Bay Area Rapid Transit District.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

A104197 – The People v. Shaun Jaru Jones.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Wednesday, July 27, 2005

Division One

A105129 – Aetna Realty et al., v. City of South San Francisco.

The trial court's decision is affirmed. The City shall recover its costs on appeal.
Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A107006 – The People v. Harol Lam Jordan.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

Division Two

A107200 – Bill Clarke v. William M. Pitts et al.

The judgment is affirmed. The Pittses are awarded their costs on this appeal. Kline, P.J.
We Concur: Haerle, J., Lambden, J. (Not for Publication)

A102387 – The People v. Moses Ursua.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

A108870 – The People v. Michelle Masterson Philson.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Three

A108082 – The People v. Michael Royce Parker.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, July 27, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Corrigan, J., Pollak, J., and F. Abad, Deputy Clerk.

A104768 The People,
 v.
 David Lee Zimmerman.
Cause called and argued by Dirck Newbury, counsel for appellant, and Frances Dogan, counsel for respondent. Cause ordered submitted.

A098329 Warren Heller, et al.,
 v.
 Insignia Financial Group, Inc., et al.
Cause called and argued by Neil Goteiner, counsel for appellants, and Steven Velkei, counsel for respondents. Cause ordered submitted.

Justice McGuiness left the bench and Justice Corrigan presided over the remainder of the calendar. Justice Corrigan announced the panel for the next case is comprised of Justice Parrilli, Justice Pollak, and herself. Justice Parrilli is away and unavailable for oral argument, but will review the recorded proceedings. The parties agreed to proceed with oral argument.

A106090 The People,
 v.
 Kris Isaac Ingwell.
Cause called and argued by Oliver Northup, counsel for appellant, and Melissa Krum, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, July 27, 2005 (continued)

Division Four

A105312 and A105613 – Joyce Yamagiwa, as Trustee, etc., v. City of Half Moon Bay et al; California Coastal Commission, Intervener and Appellant.

The judgment is reversed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Division Five

A108105 – Joseph A. Mariscal v. San Francisco Bay Area Rapid Transit District.

The order of the trial court is affirmed. Costs on appeal are awarded to Mariscal. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Thursday, July 28, 2005

Division One

A110568 – Eleanor Becker v. Perry Boussina, et al.

By the Court*: The appeal is dismissed. Motions to strike pursuant to Code of Civil Procedure section 425.16 are to be resolved as expeditiously as possible, and appellate courts are to dismiss frivolous appeals as soon as practicable and do everything in their power to prevent frustration of the relief granted. (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal. 4th 180, 196; and see *People v. Brar* (2004) 115 Cal.App.4th 1315, 1318.) This order will be final five days from its filing. (Cal. Rules of Court, rule 24, subd. (b)(3).) Plaintiff's request for sanctions is denied. Marchiano, P.J. *Before Marchiano, P.J., Stein, J., Margulies, J.

Division Two

A106444 – Fletcher Carson v. Diana Davis-Lopez.

The appeal from the March 2, 2004, judgment is dismissed. The order awarding Davis-Lopez attorneys fees is affirmed. Haerle, J. . We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A108366 – Melanie Welch v. Oakland Unified School District.

A108367 – Mark Petrofsky v. Oakland Unified School District.

We affirm the judgments. District is awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A106303 and A108107 – In re Retirement Cases.

The judgment is affirmed. No party is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication)

A105420 – The People v. Brent Eugene Memmer.

The trial court is directed to correct the record to reflect that the jury could not reach a verdict on count 1 (driving under the influence) and that the court declared a mistrial on that count. In all other respects, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication)

Thursday, July 28, 2005 (continued)

District Three

A107544 – The People v. John Christian Marston.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

A101171 – The People v. Salvador Rodriguez.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

A108634 – Sonny Ray Hardaway v. Alameda County Superior Court et al.

The appeal is dismissed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

A106256 – The People v. Michael Robert Middleton.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Partial Publication)

A106880 – Morgan K. Buchanan et al., v. NTS Properties Associates et al; Joseph Bohm et al, Objectors and Appellants.

The judgment is affirmed. Respondents shall recover their costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication)

A098329 – Warren Heller et al., v. Insignia Financial Group, Inc., et al.

The judgment is reversed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

A106839 – The People v. Edward Harrington Williams.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

Thursday, July 28, 2005 (continued)

Division Four

**A105231 – 250 L.L.C., v. Photopoint Corp. (USA); Sherwood Partners, Inc.,
Intervener and Appellant.**

– **Sherwood Partners, Inc., v. 250 L.L.C.**

The judgment is reversed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication)

**A107310 – 250 L.L.C., v. Photopoint Corp. (USA); Sherwood Partners, Inc.,
Intervener and Appellant.**

– **Sherwood Partners, Inc., v. 250 L.L.C.**

The attorney fee order is reversed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

A108273 – The People v. Bradford Neal Dickson.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Thursday, July 28, 2005 (continued)

Division Five

A106315 – Edward P. Friedberg et al., v. Franchise Tax Board.

The judgment is affirmed. Costs on appeal are awarded to respondent. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

A102915 – The Limited Stores, Inc., et al., v. Franchise Tax Board.

The judgment is affirmed. The FTB is awarded its costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A107565 – Textron Financial Corporation v. Gerald ENG et al.

The discovery sanction orders are reversed. The parties shall bear their respective costs on appeal. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A108710 – Sheila McDowd v. Conard House, Inc.

The judgment is affirmed. In the interests of justice, each side shall bear its own costs. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

A110564 – Marian E. Bricker v. The Superior Court of Humboldt County; Andrew J. Stunich, R.P.I.

A110606 – Marian E. Bricker v. The Superior Court of Humboldt County; Leola Santsche et al.

The Court:* We previously advised the parties that we might issue a peremptory writ in the first instance. (See *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) Petitioner's right to relief is obvious, no useful purpose would be served by issuance of an alternative writ, further briefing and oral argument, and the petitions are unusually urgent in that they involve small claims actions, which are to be resolved "promptly." (Code Civ. Proc., § 116.510; *Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.) Therefore, let a peremptory writ of mandate issue commanding respondent superior court to set aside and vacate its dismissal of petitioner's small claims appeals in Humboldt County Superior Court Action Nos. SC040716, SC040717, SC040718, SC040719, SC040720, SC040721, SC040722, SC040723, SC040724, SC040725 and SC040726, and to schedule further proceedings consistent with the views expressed in this opinion. This decision shall be final immediately as to this court. Cal. Rules of Court, rule 24(b)(3).) Petitioner shall recover her costs. (Cal. Rules of Court, rule 56(I).) This court's stay order shall dissolve upon respondent superior court's compliance with the peremptory writ.

*Before Jones, P.J., Stevens, J., and Gemello, J. (Not for Publication)

Friday, July 29, 2005

Division One

A104991 – The People v. Michael Weible.

The judgment is reversed, and the matter is remanded to the superior court for further proceedings consistent with this decision. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A106934 – Quinette M. Ozen et al., v. Roosevelt Richardson, Jr. et al.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A108736 – The People v. Abraham Tiggs.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A108009 – Kia C. Chevalier v. The Superior Court of Alameda County.

The judgment and orders on appeal are affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Two

A110307 – In re Christopher C., a Person Coming Under the Juvenile Court Law. Aurora C. v. Superior Court of San Francisco County; San Francisco Department of Human Services, R.P.I.

The petition for extraordinary relief is denied on its merits. Because the section 366.26 hearing is set for August 31, our decision is final as to this court immediately. (Rule 24(b)(3).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

A109247 – In re Simone G., a Person Coming Under the Juvenile Court Law. The People v. Simone G.

The judgment sustaining the petition and sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication)

Friday, July 29, 2005 (continued)

Division Three

A104714 – Henry Ferre v. Daniel Ferre.

The judgment is affirmed. Henry shall recover his costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication)

A103828 – Viable Alternatives Consultants, Inc., v. Paradox Corporation, et al.; Tropical IV, LLC, R.P.I.

The trial court's order is affirmed. Respondent shall recover its costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

A104768 – The People v. David Lee Zimmerman.

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

A105600 – The People v. Rosendo Rivas Ruiz, Jr.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A106659 – Nikki Cleveland v. California Department of Social Services, et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication)

A106090 – The People v. Kris Isaac Ingwell.

The portion of the judgment that awards presentence custody and conduct credits is vacated, and the matter is remanded to allow a correct award of credits. On remand, the trial court is directed to recalculate defendant's custody credits in a manner consistent with this opinion and to forward a copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

Division Four

A108026 – In re J.D., a Person Coming Under the Juvenile Court Law. The People v. J.D.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

A106689 – The People v. Guadalupe Suarez-Espinosa.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Friday, July 29, 2005 (continued)

Division Five

A104164 – Pinnacle Distribution Co., Inc., v. Fidelity and Deposit Company of Maryland.

A104255 – Pinnacle Distribution Co., Inc., v. Vahdani Construction Company, Inc.

The judgment is reversed and the matter is remanded to the trial court for the limited purpose of making the findings and determinations described herein. Each side shall bear its own costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

A108384 – Lena R. Williams v. Vallejo City Unified School District et al.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)

A106902 – The People v. David MacCharles.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A109024 – The People v. Shawn Edward Fox.

We find no errors or other issues requiring briefing and affirm. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)